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June 12, 2018

Hon. Erik Paulsen
Chairman
U.S. Congress Joint Economic Committee
G-01 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Paulsen,

I am writing to request a hearing of the U.S. Congress Joint Economic Committee on the issue of labor mobility and its effect on wages, productivity, innovation and economic growth.

The efficient use of resources is one of the keys to a productive economy. This is as true for labor as for capital. When American workers have the freedom to move from one job to another in which their skills are more highly valued, they can increase their earnings. And if millions of Americans are prevented from using their skills effectively the economy suffers.

Most research on labor mobility has focused on the transportability of health care and retirement benefits. When Americans fear losing these benefits, they remain in jobs that pay them less than they are worth – they experience “job lock.”¹ They are also less likely to start new businesses.

But restrictions on labor mobility can also be the result of deliberate efforts by employers. Many companies try to protect their intellectual property and their workforce through non-compete clauses, non-disclosure agreements and non-poaching agreements. This limits the ability of employees to negotiate for better salaries.² In the high-tech sector, some workers who leave their jobs are forced to temporarily leave their fields. This may hurt their future earning power and it wastes their productive potential.

Anti-competitive contracts also inhibit the free mixing of ideas and talent, so-called “knowledge spillovers,” that have been a driving force of technical innovation. Research suggests that the fact that California does not enforce non-compete contracts is partly responsible for its vibrant tech sector.³ Parts of the country that enforce non-compete contracts have suffered from “brain drain” and lost productivity.⁴

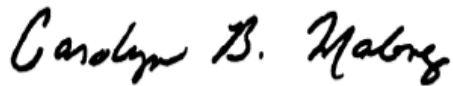
Until recently, it was assumed that anti-competitive measures are used almost exclusively by high-tech firms. However, recent reporting reveals that they affect a much wider range of employees, including fund managers, journalists, janitors and fast food workers.⁵ It is estimated that approximately one in five Americans are bound by anti-competitive labor agreements.⁶

The issue of labor mobility is a nonpartisan one. Members of both parties agree on the need to support the conditions necessary for American workers to maximize their earning potential, for the United States to remain a world leader in innovation and for boosting productivity. The issue of labor mobility also provides a lens through which to study healthcare, retirement security and other issues.

Labor mobility lies at the intersection of freedom and efficiency. Just as companies should be free to seek the highest price for their products, American workers should be free to seek the highest wages for their talents and hard work. The question of how to best safeguard that freedom deserves the attention of Members of the Joint Economic Committee.

Thank you for your consideration of my request.

Sincerely,

A handwritten signature in black ink that reads "Carolyn B. Maloney". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

CAROLYN B. MALONEY
Senior House Democrat, Joint Economic Committee

ENDNOTES

¹ Dean Baker, “Job-lock and Employer Provided Health Insurance – Evidence from the Literature,” *American Association of Retired Persons*, March 2015, <https://www.aarp.org/ppi/info-2015/job-lock-and-employer-provided-healthcare.html>; Peter Marx, “Reforming Non-Competes to Support Workers,” *The Hamilton Project*, February 2018, <https://www.brookings.edu/research/reforming-non-competes-to-support-workers/>; Orley Lobel, “Companies Compete But They Won’t Let Workers do the Same,” *The New York Times*, May 4, 2017, <https://www.nytimes.com/2017/05/04/opinion/noncompete-agreements-workers.html>.

² Alan B. Krueger and Eric Posner, “Corporate America Is Suppressing Wages for Many Workers,” *The New York Times*, Feb. 28, 2018, <https://www.nytimes.com/2018/02/28/opinion/corporate-america-suppressing-wages.html>; Paul Krugman, “The Unfreeing of American Workers,” *The New York Times*, May 22, 2017, <https://www.nytimes.com/2017/05/22/opinion/american-workers-non-compete-agreements.html>; “Non-compete Contracts: Economic Effects and Policy Implications, Office of Economic Policy,” U.S. Department of the Treasury, March 2016, <https://www.treasury.gov/resource-center/economic-policy/Documents/UST%20Non-competes%20Report.pdf>.

³ Mark Muro, “Why Non-Compete Pacts are Bad for Workers – and the Economy,” *The Wall Street Journal*, May 23, 2016, <https://blogs.wsj.com/experts/2016/05/23/why-states-should-stop-the-spread-of-noncompete-pacts/>; Justin Fox, “The Tyranny of the Non-compete Clause,” *Bloomberg News*, Apr. 11, 2016, <https://www.bloomberg.com/view/articles/2016-04-11/the-tyranny-of-the-noncompete-clause>.

⁴ Matt Marx, Jasjit Singh and Lee Fleming, “Regional disadvantage? Employee Non-compete Agreements and Brain Drain,” *Research Policy*, March 2016; <https://www.sciencedirect.com/science/article/pii/S0048733314001814>; Noah Smith, “Non-compete Contracts Take a Toll on the Economy,” *Bloomberg News*, Mar. 22, 2018, <https://www.bloomberg.com/view/articles/2018-03-22/non-compete-agreements-take-a-toll-on-the-economy>.

⁵ Lorraine Mirabella, “Employers Use Non-compete Agreements Even for Low-wage Workers,” *The Baltimore Sun*, July 7, 2017, <http://www.baltimoresun.com/business/bs-bz-non-compete-low-wage-20170705-story.html>; Sophie Quinton, “These Days Even Janitors are being Forced to Sign Non-compete Clauses,” *USA Today*, May 27, 2015, <https://www.usatoday.com/story/money/2017/05/27/non-compete-clauses-jobs-workplace/348384001/>; Stephanie Russell-Craft, “I Learned the Hard Way why Non-Competes are Bad for Journalists,” *The Columbia Journalism Review*, June 16, 2017, https://www.cjr.org/business_of_news/non-compete-agreement-journalism.php; Steven Greenhouse, “Non-compete Clauses Increasingly Pop Up in a Wide Variety of Jobs,” *The New York Times*, June 8, 2014, <https://www.nytimes.com/2014/06/09/business/noncompete-clauses-increasingly-pop-up-in-array-of-jobs.html>.

⁶ Evan Starr, J.J. Prescott and Norman Bishara, “Non-Competes in the U.S. Labor Force,” *University of Michigan Law School, Law and Economics Research Paper Series*, May 7, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2625714##.